



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

January 26, 1972

Hon. Philip G. Hoffman
President
University of Houston
3801 Cullen Boulevard
Houston, Texas 77004

Opinion No. M-1058

Re: Whether certain maintenance
and operations employees
of the University of Houston
may work on the basis of
a ten hour day, four day
work week.

Dear Dr. Hoffman:

You have requested the opinion of this office regarding the above question. In making your request, you have provided us with the following information:

"The University of Houston is considering a request for a 10 hour day, 4 day workweek for selected job classifications in the maintenance and operations department. A majority of full-time permanent employees in the maintenance and operations trades and custodial services would be affected. The purpose for such realignment of working hours would include:

"(1) More effective utilization of staff during working hours before and after normal teaching-classroom hours. (This will include total coverage of the maintenance needs on a 24 hour, 7 day basis, as is done currently, on an 8 hour day and 5 day, 40 hour week basis.)

"(2) Assistance to our efforts to provide non-cash employment options and benefits to offset our recruitment, selection and retention handicaps when competing with higher pay rates paid in our local market for these skills and services."

Article 5165a, Vernon's Civil Statutes, is quoted as follows:

"Section 1. All state employees who are employed in the offices of state departments or

institutions or agencies, and who are paid on a full-time salary basis, shall work forty (40) hours a week. Provided, however, that the administrative heads of agencies whose functions are such that certain services must be maintained on a twenty-four (24) hours per day basis are authorized to require that essential employees engaged in performing such services be on duty for a longer work-week in necessary or emergency situations.

"Sec. 2. Except as otherwise provided in Section 1 of this Act, and except on legal holidays authorized by law, the normal office hours of state departments, institutions and agencies shall be from 8:00 a.m. to 5:00 p.m., Mondays through Fridays, and these shall be the regular hours of work for all full-time employees; provided, however, that such normal working hours for employees of state departments and agencies in the Capitol Area in Austin may be staggered in such manner as biennial Appropriations Acts of the Legislature may stipulate or authorize in the interests of traffic regulation and public safety. Where an executive head deems it necessary or advisable, offices may also be kept open during other hours and on other days, and the time worked on such other days shall count toward the forty (40) hours per week which are required under Section 1 of this Act. It is further provided that exceptions to the minimum length of the work week may be made by the executive head of a state agency to take care of any emergency or public necessity that he may find to exist. None of the provisions of this Act shall apply to persons employed on an hourly basis."

This office has not previously had the occasion to consider the recent development of the ten hour day, four day work week, but we have carefully examined Article 5165a, supra, and the requirements

of the current Appropriation Bill,* and we are of the view that such a schedule for certain personnel is within the requirements laid down by the Legislature. Regarding your particular circumstances, you indicate that efficient personnel utilization would be greatly aided by such a work schedule in providing twenty-four hour coverage for your maintenance and operations functions, and would also assist in maintaining employee morale. In our opinion, the Legislature has authorized the various departments to prescribe the hours to be worked by regular state employees consistent with the nature of the duties to be performed, especially when those duties do not necessarily fall into the regular 8:00 a.m. to 5:00 p.m. work day. Attorney General's Opinion WW-644 (1959).

You are accordingly advised that it is the opinion of the Attorney General that state employees are required by law to work a minimum forty hour week, but that in situations where the administrative head of the agency deems that efficient operation of the agency will be aided thereby he may assign certain personnel to a ten hour day, four day work week.

S U M M A R Y

State employees are required by law to work a minimum forty hour week, but in situations where the administrative head of the agency deems that efficient operation of the agency will be aided thereby he may assign certain personnel to a ten hour day, four day work week.

Very truly yours,


CRAWFORD C. MARTIN

Attorney General of Texas

Prepared by Malcolm L. Quick
Assistant Attorney General

* S.B. 11, Acts 62nd Leg., R.S., 1971, as amended by S.B. 7, 1st C.S. same Leg., Art. V, Sec. 6, at p. V-34.

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APPROVED:
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